

Santa Monica Mountains Conservancy
December 2, 2008
Agenda Item 13
Attachment Index

- 2-22-08 Pfankuche Letter to Joyce Whitehead
- 3-24-08 Item 16 Conservancy Staff Report
- 6-18-08 Larry Rosen Temescal Pool Term Sheet
- 6-23-08 JTE letter to Larry Rosen
- 7-28-08 YMCA Temescal Pool Termination Letter
- SMMC Bid Offer

Joseph T. Edmiston, FAICP

From: Laurie Collins
Sent: Friday, February 22, 2008 3:14 PM
To: Joseph T. Edmiston, FAICP
Subject: FW: Palisadian Post

fyi

From: Pfannkuche, Carol [mailto:CarolPfannkuche@ymcala.org]
Sent: Friday, February 22, 2008 2:54 PM
To: Joyce Whitehead
Cc: Laurie Collins
Subject: Palisadian Post

Hi Joyce -- Just wanted to let you know that Sue Pascoe from the Post called today. Based on my conversation with Laurie Collins earlier in today, I told Sue we are collaborating with the Conservancy toward a renewal of the contract to continue the life of the pool in Temescal Canyon (or something to that effect). I gave her an overview of our repair plan, timeframe (about three weeks) and estimated cost (about \$25,000). I told her we will work concurrently on the repairs and the revision of the contract, and if all goes well, our members and friends will be back in the pool in about three weeks. I did not discuss any specifics of the contract. CP

Carol Pfannkuche
Executive Director
Palisades-Malibu YMCA
31/454-5591
www.ymcala.org/pm

Memorandum

To : The Conservancy
The Advisory Committee

Date: March 24, 2008

From : Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Director

Subject: **Agenda Item 16: Consideration of resolution authorizing the Conservancy to enter into a five year term lease with the YMCA of Metropolitan Los Angeles at Temescal Canyon Park, Pacific Palisades.**

Staff Recommendation: That the Conservancy adopt the attached resolution authorizing the Conservancy to enter into a five year term lease with the YMCA of Metropolitan Los Angeles at Temescal Canyon Park, Pacific Palisades and delegate to the Executive Director the authority to finalize lease negotiations.

Legislative Authority: Public Resources Code Section 33211(c).

Background: Temescal Canyon Park was acquired from The Synod of Southern California in 1995. The Conservancy acquired the property subject to a 1985 option agreement and a pool lease entered into by and between The Synod and the YMCA of Metropolitan Los Angeles (YMCA). The YMCA was in possession of both the pool area and the option parcel at the time of the acquisition. The option parcel is located at the entrance of the Temescal Canyon Park. The YMCA exercised the option in 2007.

The pool lease was to terminate upon the happening of the earliest of the following dates: 1) the completion and opening of a new pool on the option parcel; 2) termination of the option agreement; or 3) the date 15 years after the pool lease date. By agreement in 1994 the Conservancy amended the pool lease term to provide for the term to expire upon the end of the useful life of the existing pool.

The YMCA pool recently sustained significant damage that has been temporarily repaired. The YMCA has requested that the parties enter into a new lease prior to the YMCA making the expenditures required to extend the useful life of the pool. The YMCA has requested that the term be extended for a period of time sufficient to allow the YMCA to relocate to a new pool located offsite.

The form of the new lease will be substantially in the same form as signed by Seven Arrows and Chabad. The proposed term of the lease is five years. The proposed consideration for the lease is similar to past consideration - namely free use of the pool by the Conservancy and Mountains Recreation and Conservation Authority for two hours each day. In addition, staff

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March 24, 2008
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has requested use of the YMCA option parcel as an overflow parking location.

The YMCA to retain all liability for the pool and pool premises and shall pay all costs for maintenance, insurance, utilities and operation.

YMCA of Metropolitan Los Angeles
626 South New Hampshire Avenue, Los Angeles, CA 90005-1342
(213) 380-6448 / Fax (213) 251-9720 / www.ymcala.org

June 18, 2008

Santa Monica Mountains Conservancy
5750 Ramirez Canyon Road
Malibu, California 90265
Attention: Mr. Joseph T. Edmiston

Re: Ground Lease Term Sheet for Palisades Pool Site

Dear Mr. Edmiston:

The attached term sheet (the "Term Sheet") summarizes the basic terms of a potential transaction between the Santa Monica Mountains Conservancy ("SMMC") and the YMCA of Metropolitan Los Angeles ("YMCA"), whereby the Palisades-Malibu branch of the YMCA would: (i) ground lease from SMMC certain real property located in Pacific Palisades, California, (ii) renovate the swimming pool and related structures located thereon, and (iii) provide aquatic and other YMCA healthy-lifestyle programming to the community therefrom. This Term Sheet has been prepared as a basis for our joint efforts to negotiate definitive agreements or other legally binding documents (the "Definitive Documents"), and the parties' agreement is subject to execution and delivery of the Definitive Documents. The Term Sheet imposes no obligation or liability on any party (except as specifically set forth in the following sentence) and shall not be interpretive of any prior relationship between the parties. Neither party shall be contractually bound by the Term Sheet except for the provisions titled: "Ground Lease", "Due Diligence", "Brokerage", "Confidentiality" and "Governing Law". In addition, neither party may assign its rights under this letter.

If the above reflects your understanding of the nature of this Term Sheet transmittal, please sign and return a counterpart to us. This agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. We will look forward to working with you on the Definitive Documents.


Thank you and best regards.

YMCA OF METROPOLITAN LOS ANGELES

By: 

Name: Larry M. Rosen
Title: President & CEO



 We build strong kids,
strong families,
strong communities.

LA18674562

June 17, 2008
YMCA of Metropolitan Los Angeles

Agreed to and Accepted:

SANTA MONICA MOUNTAINS CONSERVANCY

By: _____
Name:
Title:

EXHIBIT B

Depiction of Pool Site

[To be attached]

EXHIBIT B

1

LA11B67456.2

TERM SHEET

- SMMC:** The Santa Monica Mountains Conservancy, an agency of the State of California ("SMMC").
- YMCA:** YMCA of Metropolitan Los Angeles, a California nonprofit corporation ("YMCA").
- Property:** SMMC is the owner of (i) certain real property known as Temescal Gateway Park located at 15601 Sunset Boulevard, Pacific Palisades, California, as more particularly described on Exhibit A attached hereto (the "Property"), and (ii) all buildings, structures and other improvements and appurtenances located on the Property.
- Ground Leased Property:** An approximately one (1) acre portion of the Property upon which a swimming pool complex (the "Pool") is currently located, as depicted on Exhibit B attached hereto (the "Pool Site").
- Ground Lease:** Within fifteen (15) business days following the date of full execution and delivery of this Term Sheet, YMCA shall deliver a draft ground lease to SMMC substantially on the terms set forth herein (the "Ground Lease"). The parties shall thereafter negotiate in good faith and use commercially reasonable efforts to finalize the Ground Lease within ninety (90) days following YMCA's initial delivery thereof (the "Good Faith Negotiation Period").
- Due Diligence:** During the Good Faith Negotiation Period, YMCA shall have the right, at YMCA's sole cost and expense, to: (a) enter upon the Pool Site to perform any non-intrusive inspections, investigations, studies and tests of the Pool Site; (b) cause environmental assessments of the Pool Site to be performed, upon reasonable notice to SMMC; and (c) investigate such other matters as YMCA may reasonably desire; provided, that YMCA shall (i) indemnify SMMC for any liability, damage, lien, loss, cost or expense caused by or in connection with YMCA's entry upon the Pool Site (except to the extent arising from the mere discovery of existing conditions that are not exacerbated by YMCA), and (ii) maintain comprehensive general liability insurance coverage in connection with its investigations of the Pool Site, with limits of not less than One Million Dollars (\$1,000,000). SMMC shall reasonably cooperate with YMCA (at no cost to SMMC) in connection with YMCA's diligence during the Good Faith Negotiation Period.
- Ground Lease Term:** Fifty-five (55) years ("Ground Lease Term"). Two (2) options to extend for twenty (20) years.

TERM SHEET

Commencement Date: The date upon which all Commencement Conditions (as defined below) have been satisfied, in YMCA's sole discretion; provided, that if the Commencement Conditions have not been satisfied on or before the date which is the second (2nd) anniversary of the effective date of the Ground Lease, then YMCA shall have the right to terminate the Ground Lease for a period of one (1) year thereafter and, in the event of such termination, each party shall be released from any further obligations thereunder.

Base Rent: Annual base rent of \$1.00.

Additional Rent: YMCA shall be responsible for any taxes, assessments, utilities, personal property taxes and any and all other charges, fees and other governmental levies of any kind and nature whatsoever, including, without limitation, water and sewer charges, rates and rents, utility charges and license and permit fees relating to the use, occupancy, operation or maintenance of the Pool and the Pool Site.

Permitted Use: Renovation of the Pool Site and operation of aquatic and other YMCA healthy-lifestyle programming (including, without limitation, certain outreach programs targeting "at-risk" youth). In connection with the foregoing, YMCA shall have the right, at its sole cost and expense, to rebuild the Pool and further develop the Pool Site consistent with the Permitted Use and other development criteria to be agreed upon in the Ground Lease.

Commencement Conditions: In addition to conditions precedent occasioned by the nature of the contemplated renovation of the Pool Site to the extent agreed by the parties, the Ground Lease shall include the following conditions precedent to the commencement thereof (the "Commencement Conditions"): (i) final determination by YMCA of the suitability of the Pool Site for the contemplated renovations; (ii) receipt by YMCA of financing commitments sufficient to cover the costs of renovating the Pool Site; and (iii) confirmation by YMCA that it has obtained all permits and approvals required in connection therewith.

Initial Construction: Prior to the commencement of any construction on the Pool Site, YMCA shall deliver to SMMC copies of the following: (i) all plans and specifications; (ii) all construction-related contracts; (iii) any permits or other approvals required by law; and (iv) evidence of insurance.

Maintenance and Repairs: YMCA shall be responsible for all maintenance and repairs with respect to the Pool and the Pool Site during the Ground Lease Term, including, without limitation, all plumbing, electrical and

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TERM SHEET

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Base Rent: Annual base rent of \$1.00.

Additional Rent: YMCA shall be responsible for any taxes, assessments, utilities, personal property taxes and any and all other charges, fees and other governmental levies of any kind and nature whatsoever, including, without limitation, water and sewer charges, rates and rents, utility charges and license and permit fees relating to the use, occupancy, operation or maintenance of the Pool and the Pool Site.

Permitted Use: Renovation of the Pool Site and operation of aquatic and other YMCA healthy-lifestyle programming (including, without limitation, certain outreach programs targeting "at-risk" youth). In connection with the foregoing, YMCA shall have the right, at its sole cost and expense, to rebuild the Pool and further develop the Pool Site consistent with the Permitted Use and other development criteria to be agreed upon in the Ground Lease.

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Initial Construction: Prior to the commencement of any construction on the Pool Site, YMCA shall deliver to SMMC copies of the following: (i) all plans and specifications; (ii) all construction-related contracts; (iii) any permits or other approvals required by law; and (iv) evidence of insurance.

Maintenance and Repairs: YMCA shall be responsible for all maintenance and repairs with respect to the Pool and the Pool Site during the Ground Lease Term, including, without limitation, all plumbing, electrical and

structural repairs required to maintain the Pool and the Pool Site in good order, condition and repair.

Casualty: To be agreed upon in the Ground Lease.

Condemnation: To be agreed upon in the Ground Lease.

Insurance: YMCA shall be responsible for insuring the Pool Site during the Ground Lease Term, including both commercial general liability insurance and property insurance. Minimum amounts to be agreed upon in the Ground Lease.

Indemnifications: SMMC and YMCA shall each indemnify the other against any: (i) wrongful act, wrongful omission or negligence of the applicable indemnitor (and anyone claiming by or through such indemnitor) or its or their partners, members, directors, officers or employees; (ii) breach or default by the applicable indemnitor under the Ground Lease; or (iii) breach of any representation or warranty made by the applicable indemnitor in the Ground Lease. In addition, YMCA shall indemnify SMMC against the following during the Ground Lease Term: (a) the use, occupancy, management, operation and possession of the Pool and the Pool Site; (b) any construction performed by or on behalf of YMCA at the Pool or the Pool Site and any agreements YMCA makes in connection with such construction; (c) the condition of the Pool and the Pool Site; (d) the deposit, discharge, release or spill of hazardous substances (to be further defined in the Ground Lease) at or from the Pool Site; and (e) any accident, injury or damage whatsoever caused to any person in or on the Pool or the Pool Site. Notwithstanding the foregoing, nothing shall be construed to exculpate, relieve or indemnify SMMC from or against any liability of SMMC existing at or before the Commencement Date or arising from SMMC's intentional acts or omissions or negligence.

Assignment and Transfers: YMCA shall not assign or transfer its interest in the Ground Lease without SMMC's prior written consent, which consent shall not be unreasonably withheld; provided, however, that the foregoing shall not prohibit YMCA from (i) assigning the Ground Lease to another YMCA entity, (ii) entering into licenses or other occupancy agreements with third parties to use or occupy portions of the improvements constructed by YMCA on the Pool Site without the prior written consent of the SMMC, or (iii) entering into a deed of trust, mortgage or other security instrument as otherwise permitted by the terms of the Ground Lease. Any transfer by SMMC shall be

subject to a right of first option to purchase the Pool Site in favor of YMCA.

- Memorandum of Lease:** Concurrent with the execution of the Ground Lease, the parties shall execute and cause to be recorded a Memorandum of Lease, which shall include the name of the parties, a legal description of the Pool Site, the Ground Lease Term, and a statement that the Pool Site has been leased by SMMC to YMCA.
- Dispute Resolution:** Disputes between the parties shall be submitted to binding arbitration, in accordance with procedures to be agreed upon in the Ground Lease.
- Right of First Option:** YMCA shall have a right of first option with respect to any sale, lease or development by SMMC of that certain portion of the Property consisting of two (2) acres located adjacent to the Pool Site, as depicted on Exhibit C attached hereto (the "Adjacent Site"). In the event that SMMC desires to sell, lease or develop the Adjacent Site, as the case may be, SMMC shall provide YMCA with written notice setting forth the material terms and conditions of the proposed sale, lease or development, as applicable. YMCA shall have thirty (30) days to exercise such right of first option. If YMCA declines to exercise such right, SMMC shall be free to sell, lease, develop or otherwise use or transfer the Adjacent Site without any further approval or consent of YMCA. If YMCA elects to exercise such right, the parties shall work together and cooperate in good faith and in a commercially reasonable manner to negotiate and finalize definitive documentation in connection with such sale, lease or development, as applicable.
- Brokerage:** SMMC and YMCA each represent and warrant that they have dealt with no real estate brokers in connection with the transaction described herein and each shall indemnify the other for any breach of this section by such party.
- Confidentiality:** This Term Sheet and all information exchanged between the parties shall be kept confidential, shall not be reproduced or disclosed, and shall not be used by either party other than in connection with evaluating and concluding the transactions described herein. Each of the parties acknowledges that any of the parties may disclose to its third party consultants that the transaction contemplated herein is being negotiated.
- Governing Law:** Any dispute concerning the subject matter of this Term Sheet will be determined in accordance with the laws of the State of California. Venue shall be in Los Angeles County.

TERM SHEET

[To be attached]

EXHIBIT A

EXHIBIT B

Depiction of Pool Site

[To be attached]

EXHIBIT C

Depiction of Adjacent Site

[To be attached]

SANTA MONICA MOUNTAINS CONSERVANCY

RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207



VIA FACSIMILE AND ELECTRONIC MAIL

June 23, 2008

Mr. Larry M. Rosen
President & Chief Executive Officer
Young Men's Christian Association of
Metropolitan Los Angeles
625 South New Hampshire Avenue
Los Angeles, California 90005

Ground Lease Term Sheet for Temescal Canyon Pool Site

Dear Larry:

Your letter of the 18th instant is before me. I must say, a dollar-a-year 55 year ground lease, is—as the English say—quite “cheeky” of you. But since I’ve been known to propose some audacious real estate transactions myself, perhaps it is condign to have the tables turned.

Suffice it to say, I can’t just initial and return.

To recap where we are: Earlier this year it became clear that the Temescal Canyon pool needed repair; all of us hoped that only minor work needed to be done. To put everybody on firmer legal ground, back in March the Conservancy’s staff counsel provided a draft lease to the Executive Director of your Palisades-Malibu branch. Quite a bit different from the arrangement you have proposed. We were thinking three to five years based on a comparatively minor repair of the existing pool.

As a result of the tests you have undertaken, it is clear that minor repairs are not sufficient. The magnitude of the investment, on the order of \$400,000, indicates that the pool has reached the end of “the existing useful life of the existing pool” as that term is used in ¶ 7 of the November 8, 1994 agreement between the YMCA and the Conservancy.

Contemplating the long-term nominal value lease you have proposed, we must look to the Conservancy’s enabling legislation for guidance.

Section 33206 of the Santa Monica Mountains Conservancy Act provides that: "The conservancy may lease lands acquired in accordance and for purposes consistent with this division."

Moreover, because the property in question was acquired using funds granted by the Los Angeles County Regional Park and Open Space District pursuant to the Safe Neighborhood Parks Act of 1992 (Proposition A) for the express purpose of "trails" and "at risk youth" facilities, any lease of the facility beyond that contemplated by the November 1994 agreement must be consistent with those purposes for which the property was acquired.

So, rather than a "term sheet" to be initialed, the Santa Monica Mountains Conservancy will require a formal proposal that addresses:

- Consistency with the Santa Monica Mountains Conservancy Act.
- Consistency with the purposes for which the property was acquired pursuant to the specific grants from the Los Angeles County Regional Park and Open Space District, *i.e.*, "trails" and "at risk youth facilities."

Upon receipt of your proposal, the Conservancy staff will prepare an Initial Study pursuant to the California Environmental Quality Act. Depending on the results of the Initial Study, if there is further environmental documentation required, then the YMCA will be required to pay in advance for any studies and the preparation of whatever further reports or written information that the Executive Director of the Conservancy may require so as to comply with CEQA.

Upon completion of environmental documentation, the proposal will be submitted for public review for the statutory period, and then following such review period, will be submitted to the Executive Director. If the Executive Director determines that the proposal is consistent with the Santa Monica Mountains Conservancy Act and other applicable statutes, it will be agendized for approval by the Santa Monica Mountains Conservancy Advisory Committee and the Conservancy itself. Notwithstanding the Executive Director's determination, you may appear at a Conservancy public meeting and request that by majority vote the Conservancy puts the item on the next agenda.

If the Conservancy grants approval, then the transaction must be approved by the Director of General Services in Sacramento and all costs thereof must be borne by the YMCA.

Mr. Larry M. Rosen
June 23, 2008

Page 3

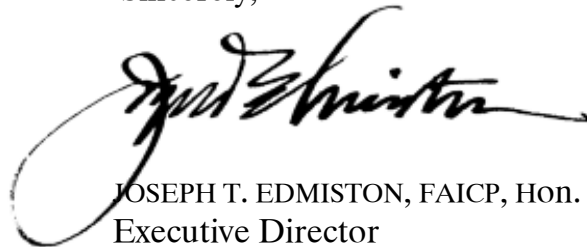
Furthermore, your organization will need to indemnify, defend, and hold harmless the Conservancy, its officers and employees from any costs of a lawsuit as the result of this transaction, if approved.

Finally, with respect to liability for the pool itself, based on the prior instructions from the Conservancy, we will insist that both the Conservancy itself and the State of California, and the employees, agents, and assigns thereof, must be indemnified, held harmless, and insured against any liability whatsoever, as a result of the pool proposal.

As a final observation in passing, I must suggest that the Young Men's Christian Association and the Palisades Charter High School may want to join forces. The High School pool is going forward through the generous donation of our beloved Mrs. Gilbert. Does the Pacific Palisades community need two pools with the attendant fund raising for each? This is not just an idle suggestion. If the Y proposal to the Conservancy is based on a local "community need" then, assuming—without at all agreeing—that such a thing is among the purposes of the Santa Monica Mountains Conservancy Act, it is relevant that such "need" might be satisfied or mostly so by the High School pool, and not a private pool on State property.

We await your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Edmiston", with a large, stylized loop at the end.

JOSEPH T. EDMISTON, FAICP, Hon. ASLA
Executive Director

cc: The Conservancy
The Advisory Committee
John Saurenman, Supervising Deputy Attorney General
Laurie Collins, Staff Counsel, SMMC
Carol Pfannkuche, Executive Director, Palisades-Malibu YMCA
Bill Bruns, Editor, Palisadian Post

YMCA of Metropolitan Los Angeles
625 South New Hampshire Avenue, Los Angeles, CA 90005-1342
(213) 380-6448 | Fax (213) 251-9720 | www.ymcala.org

July 29, 2008

Santa Monica Mountains Conservancy
5750 Ramirez Canyon Road
Malibu, California 90265
Attention: Mr. Joseph T. Edmiston

Re: 15601 Sunset Boulevard/Palisades Pool Site


Dear Mr. Edmiston:

As you know, the Santa Monica Mountains Conservancy ("SMMC") and the YMCA of Metropolitan Los Angeles ("YMCA") have recently been engaged in discussions regarding the potential lease by the YMCA of a swimming pool complex located on certain land owned by the SMMC having an address at 15601 Sunset Boulevard, Pacific Palisades, California (the "Pool Site"). The YMCA (through its Palisades-Malibu branch) previously occupied and operated various aquatic programs from the Pool Site, but all prior agreements between the parties in connection with the Pool Site have expired and, accordingly, the YMCA has terminated its operations therefrom.

Notwithstanding such termination, in furtherance of the above-mentioned discussions between the parties, the YMCA recently solicited a geological study of the Pool Site on behalf (and with the consent) of the SMMC to determine the feasibility of a future YMCA lease thereof. One of the YMCA's primary concerns in connection with a future lease of the Pool Site has been the current geological stability thereof, as well as the structural soundness of the swimming pool currently located thereon. While the YMCA has not in the past been responsible for such stability and/or structural issues, based on the results of the geological study and the YMCA's desire to restore and reopen the Pool Site, the YMCA was willing to consider taking on such responsibility in the context of long-term ground lease (as evidenced by the term sheet previously provided). In response, the Conservancy indicated in a letter dated June 23, 2008 that it will require a formal proposal in connection with any such long-term arrangement and, accordingly, as of the date hereof, no agreement with respect to the YMCA's future use or occupancy of the Pool Site has been reached.

While the YMCA is interested in pursuing a future relationship with the SMMC in connection with the Pool Site, unless and until a lease arrangement is agreed upon by the parties, the YMCA is unable to and will not occupy the Pool Site. The YMCA has taken care to secure the Pool Site on behalf of the SMMC to the best of its ability, but in doing so does not purport to have any rights in connection with the continued use or occupancy thereof. It is the YMCA's belief that it has previously performed all of its obligations under the prior agreements related to the Pool Site, and has no further responsibility in connection therewith.



 We build strong kids,
strong families,
strong communities.

We look forward to discussing possible next steps with you in order to determine whether there is a potential framework for the YMCA's future use or occupancy of the Pool Site that would be agreeable to both sides.

Thank you and best regards.

YMCA OF METROPOLITAN LOS ANGELES

By:



Name: Michael Kinal

Title: Executive Vice President Capital Projects

NOTICE OF POTENTIAL BID REQUEST AND INVITATION FOR POTENTIAL BIDDERS TO SUBMIT REQUESTS FOR PRE-BID GEO-TECHNICAL STUDIES TEMESCAL CANYON POOL

NOTICE IS THEREBY GIVEN that the staff of the Santa Monica Mountains Conservancy of the State of California (SMMC), and of the Mountains Recreation and Conservation Authority (MRCA), intends to recommend that the Santa Monica Mountains Conservancy as owner, and the Mountains Recreation and Conservation Authority, as facility manager, authorize a competitive bid process that will be open to any qualified bidder, including nonprofit organizations pursuant to Section 3.15 of the State Contract Manual, for a five (5) year lease of the existing pool facility in Temescal Canyon, subject to certain conditions as more specifically set forth below. **Such recommendation will be considered by the Santa Monica Mountains Conservancy at a meeting to be held at Stewart Hall, Temescal Canyon Conference and Retreat Center, 15601 Sunset Blvd., Pacific Palisades, CA 90272, on Tuesday, December 2, 2008 at 7:30 p.m.**

The SMMC reserves the right to approve, deny, modify, condition, or to add or remove prospective conditions or particulars of the bid offering or the conditions thereof, or any combination of such actions. No individual, person, corporation, firm, nonprofit organization, or other entity shall have any right, title or interest as a result of this potential bid solicitation. Any rights or interests shall derive exclusively from an executed lease agreement with SMMC and approved by the Director of General Services and such other approving entities as may be required by applicable law. The SMMC reserves the right to reject all bids.

SUMMARY OF BID CONDITIONS TO BE RECOMMENDED. The staff of the SMMC intends to recommend the following bid conditions, provided, however, that this list of bid conditions is not comprehensive as to the total package of bid conditions that may be recommended by the staff, nor approved by the Conservancy:

- **Who may bid:** Any individual, firm or corporation authorized to do business in the State of California, any unincorporated association, or any nonprofit organization qualified as such pursuant to the laws of the state of California, whether or not such organization has qualified or intends to qualify pursuant to Section 501(c) (3) of the Internal Revenue Code. The SMMC and/or MRCA reserves the right to conduct any and all credit and asset checks upon any bidder or potential bidder in order to ascertain such bidder's fitness to perform, provided however, that any bidder or potential bidder shall be notified if any credit or asset check discloses adverse information, and such bidder or potential bidder shall have the opportunity to post a cash or security bond, in an amount satisfactory to the Executive Director, in order to satisfy a reasonable ability to perform standard.
- **Property to be leased:** The existing Temescal Canyon pool facility and adjacent grounds previously occupied and leased by the Pacific Palisades-Malibu YMCA. The reconstruction/repair of the existing facilities are limited to the existing facilities, structures and developed footprint and may not exceed the historic intensity of use of the existing facilities. The reconstruction/repair must be undertaken and completed in compliance with all applicable environmental laws, the City of Los Angeles Building and Safety Code, and all other applicable laws and regulations. Compliance with such laws, rules, and regulations shall be the sole responsibility of the lessee.
- **Term:** Five (5) years from end of reconstruction period. This lease term is non-renewable and non-extendable. Any new lease of the Temescal Canyon Pool, after the five year period will be at the sole discretion of the SMMC and will be subject to a full Environmental Impact Report, Temescal Canyon Master Plan approval, and California Coastal Commission approval (if required). It is expressly understood by all parties that the Conservancy may, at its exclusive determination and based only upon the provisions of the Santa Monica Mountains Conservancy Act, decide not to continue pool use at this site and may substitute any use, or no use, at this location.
- **Reconstruction period:** From the date of execution of the lease by all parties, the lessee shall have not more than one year to reconstruct/repair the pool. The reconstruction period will end with the opening of the pool for use, and as of such date the lease term shall commence. If the reconstruction/repair is not completed within one year of the date of the execution of the lease the lease shall automatically terminate and be of no further effect with the exception of any continuing obligations such as the duty to indemnify and remove the improvements.
- **Acknowledgement:** Each pool user must acknowledge that he/she understands and agrees to all the terms and conditions, including lease terms and non-renewal provisions. No person shall be permitted to use the pool that has not agreed to be bound by the non-renewal provisions.
- **Consideration:** One dollar (\$1) per year, plus "At-Risk Youth Activity Contribution" as more specifically detailed below.
- **Liability:** Lessee assumes all liability under the same terms as the previous tenant, YMCA assumed in its lease with the Presbyterian Synod. To wit, the lessee "tenant" will be bound by the following:

TENANT agrees to protect, indemnify, defend, and hold harmless the SMMC and MRCA, and SMMC's and MRCA's directors, officers, constituent members (including, without limitation, the Rancho Simi Recreation and Park District and the Conejo Recreation and Park District), employees, and agents, from any and all liability, claims, demands, and causes of action of any nature, in law or in equity, and any expense incident to SMMC's defense, for injury to or death of persons or loss of or damage to property occurring on or about the Premises, that grow out of or are connected with TENANT's use, development and/or occupation of the Premises, or the condition of the Premises. TENANT shall further protect, indemnify, defend, and hold harmless SMMC and MRCA and SMMC's and MRCA's directors, officers, constituent members (including, without limitation, the Rancho Simi Recreation and Park District and the Conejo Recreation and Park District), from and against any and all claims arising from any breach or default in the performance of any obligation on TENANT's part to be performed under the terms of this Lease, or arising from any negligence of TENANT or TENANT's agents, employees, representatives, or contractors from and against all costs, attorneys fees, expenses, and liabilities incurred in the defense of any such claim or action or proceeding brought thereon; and in case any action or proceeding be brought against SMMC or MRCA by reason of any such claim, TENANT, upon notice from SMMC, shall defend SMMC and MRCA at TENANT's expense by counsel satisfactory to SMMC. TENANT, as a material part of the consideration to SMMC, hereby assumes all risk of damage to property or injury or death to persons, in, upon or about the Premises arising from any cause and TENANT hereby waives all claims in respect thereof against SMMC.

- **Insurance:** Lessee shall maintain a comprehensive liability insurance policy acceptable to the Office of the Attorney General in an amount to be determined by the Attorney General to be adequate to protect the State of California, but not less than two million dollars (\$2,000,000) per occurrence/claimant, or five million dollars (\$5,000,000) total.
- **Parking:** Long term users of the pool will be required to purchase the MRCA annual parking pass, at the current discounted rate. Occasional users will be required to purchase the full daily parking pass. Persons parking on the deeded YMCA property at the southern end of Temescal Canyon will be governed by YMCA rules and parking rates.

The "At-Risk Youth Activity Contribution" is the monthly contribution of the actual cost of a two day, one night, outdoor camping experience for 40 at-risk-youth, spread over two sessions, at Sycamore Grove, or other appropriate venue in Temescal Canyon. If provided by the MRCA the actual costs are \$156.50 per camper for a two day, one night outdoor camping experience. (These costs will be subject to an annual cost adjustment, but in no event shall be greater than the actual cost of providing the service, as certified by the Financial Officer of the MRCA.) The lessee or proposed lessee may substitute an alternative overnight camping experience for the same or greater number of participants and offering an equivalent or substantially similar outdoor experience to be conducted at their expense. Any such alternative program to be conducted by a lessee shall be certified by the Deputy Executive Officer for Interpretation of the MRCA; his or her certification of the applicability of such alternative program shall be conclusive.

The "Non renewal provision" is a statement in all applicable documentation, as determined by the Executive Director, that the lease may not be renewed. A new lease may be entered into, but only after full compliance with all applicable laws, regulations, and policies, including—at a minimum—full compliance with the Environmental Impact Report requirements of the California Environmental Quality Act, compliance with the provisions of the Temescal Canyon Master Plan, which plan shall be developed to guide future development and use of the canyon, and compliance with California Coastal Act.

POTENTIAL BIDDER OPPORTUNITY FOR SITE INSPECTION AND GEO-TECHNICAL STUDIES:

The Temescal Pool site is available for inspection and geo-technical studies by bona fide potential bidders. Contact Lisa Soghor at (323) 221-8900 x 105 or via e-mail at lisa.soghor@mrca.ca.gov.

FURTHER QUESTIONS WILL BE ANSWERED ONLY VIA E-MAIL AND WILL BE POSTED ON THE SMMC WEBSITE. <http://www.smmc.ca.gov/temescalpool/>

Address all questions/comments to: TemescalPoolInfo@smmc.ca.gov.